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NO. 81-4

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1980

PRAMAN CHIRAVACHARDHIKUL
a.k.a. PRAMAN CHIRAVACHARDHIJUL

PETITIONER,

v.

IMMIGRATION AND NATURALIZATION SERVICE

RESPONDENT

REPLY PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

FRANK J. CERESI
Attorney for Petitioner
2060 North 14th Street
Arlington, Virginia 22201
703-524-1900

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REPLY PETITION FOR WRIT

OF CERTIORARI

STATEMENT

The petition for a writ of certiorari was filed July 2, 1981. The brief for the respondent in opposition was filed by mail September 16, 1981.

POINT ONE: THE ALTERNATIVE GROUND

The respondent argues that Praman's case is inappropriate for review because the Board stated in dicta that even if Praman was eligible for discretionary relief under section 212(c), it would be denied because of his drug involvement. (Pet. supp. app. 8a- 9a).

Althouqh petitioner was able to submit several character reference affadavits, the record clearly shows that he was not given a reasonable opportunity to present evidence to convince the Trial Judge to grant the waiver.

Even the Respondent does not refute that there was no full and fair hearing afforded Petitioner that comported with accepted principles of due process.

The Tenth Circuit faced a remarkably similar situation in which it adjudged that an alien facing deportation because of his conviction for importation of narcotics was denied an adequate 212(c) hearing. Chief Judge Lewis writing for a unanimous Court stated:

> "The gratuitous statement of the immigration judge that he would deny the application in any event was therefore based on evidence relating soley to the issue of deportability, rather than to the separate and distinct issue of whether deportation should be waived in this particular case. Vissian's counsel did make an offer of proof consisting of eleven letters of recommendation from apparently substantial citizens stating the basis of their association with Vissian, their knowledge of his Australian conviction and their opinion as to his present moral character and value to the community. We cannot conclude, however, that this isolated offer of proof, which was summarily rejected in the immigration judge's decision, satisfied the requirements of a full and fair hearing comporting

with accepted principles of due process."

See Vissian v. INS, 548 F.2d 325 (10th Cir. 1977). See also Matter of Marin Int. Dec #2666 (B.I.A. 1978).

POINT TWO: THE FAMILY SITUATION

In footnote 10 of their brief, respondent erroneously assumes that Praman is currently separated from his wife and their child is being raised in El Salvador. This is in error. Though Praman and his wife separated after marital difficulties before the initial hearing, and remained in that status until after the hearing, they have reconciled and have been residing together with their child since 1979.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Frank J. Ceresi

FRANK J. CERESI
Attorney for Petitioner